

1 **LAW OFFICES OF DALE K. GALIPO**

2 Dale K. Galipo (SBN 144074)
E-mail: dalekgalipo@yahoo.com
3 Hang D. Le (SBN 293450)
E-mail: hlee@galipolaw.com
21800 Burbank Blvd., Suite 310
Woodland Hills, CA 91367S
4 Tel: (818) 347-3333; Fax: (818) 347-4118

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6 *Attorneys for Plaintiff*

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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 JENNIE QUAN, individually and as
successor in interest to BENJAMIN
11 CHIN, deceased,

12 Plaintiffs,

13 vs.

14 COUNTY OF LOS ANGELES;
15 MARISOL BARAJAS; HECTOR
16 VAZQUEZ; and DOES 3-10, inclusive,

17 Defendants.

18 Case No. 2:24-cv-04805-MCS-KS

19 *Assigned to:*
Hon Mark C. Scarsi
Hon. Mag. Judge Karen L. Stevenson

20 **PLAINTIFF'S MEMORANDUM OF
CONTENTIONS OF FACT AND LAW**

21 Final Pretrial Conference:
Date: January 26, 2026
Time: 2:00 p.m.
Crtrm: 7C

22 Trial:
Date: February 10, 2026

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1 **PLAINTIFFS' MEMORANDUM OF CONTENTIONS OF FACT AND LAW**

2 **I. SUMMARY OF FACTUAL CONTENTIONS**

3 On June 19, 2023, at approximately 11:30 a.m., Los Angeles County Sheriff's
4 Deputies responded to the 2900 block of Crooked Creek Drive in Diamond Bar,
5 California regarding reports of a man with a rifle. The deputies located Benjamin
6 Chin ("Decedent") walking on the sidewalk along Crooked Creek Drive. The
7 deputies observed Decedent wearing a rifle slung over the right side of his body.
8 They also encountered Decedent's mother, Jennie Quan, who had non-life-
9 threatening injuries. Ms. Quan pleaded with the deputies to not shoot her son. The
10 deputies, including Deputy Hector Vazquez, followed Decedent as he walked to the
11 intersection of Crooked Creek Drive and Diamond Bar Boulevard.

12 Diamond Bar Boulevard runs north to south. Decedent entered the intersection
13 and then walked southbound in the middle of Diamond Bar Boulevard. Deputy
14 Hector Vazquez left cover from behind a patrol vehicle that was slowly moving in the
15 direction of Decedent to follow behind Decedent on the east sidewalk of Diamond
16 Bar Boulevard. Deputy Marisol Barajas was driving northbound on Diamond Bar
17 Boulevard when she spotted Decedent and pulled over, exited her vehicle, positioned
18 herself behind the "V" of the open door of her patrol vehicle, and pointed her duty
19 weapon at Decedent while giving him commands to drop the gun. Deputy Barajas
20 observed Decedent walking with the rifle slung over the right side of his body with
21 the barrel pointed down. Throughout the entire encounter while Deputy Barajas had
22 her eyes on Decedent, she never saw Decedent touch the rifle, manipulate the rifle,
23 raise the rifle, or point the rifle at anyone.

24 As Decedent slowly walked southbound on Diamond Bar Boulevard, Deputy
25 Barajas gave Decedent repeated commands to put the gun down. When Decedent
26 continued to walk slowly southbound, with the gun still resting against his chest and
27 the barrel pointed down towards the ground, Deputy Barajas fired one shot at
28 Decedent. Deputy Vasquez's Bodyworn Camera (BWC) captured this portion of the

1 shooting, which shows Decedent flinching as if struck by the gunshot. Decedent then
2 briefly paused before slowly walking southbound, again with the rifle resting against
3 his chest and the barrel pointed down. Deputy Barajas gave two additional commands
4 to put the gun down before Deputy Vasquez fired one shot, paused while Deputy
5 Barajas fired two additional shots, and Deputy Vasquez fired a final shot. After
6 Deputy Barajas' second shot but before Deputy Vasquez's final shot, Decedent had
7 stopped advancing and was bent over, before going down to the ground.

8 Deputy Barajas fired three shots total and Deputy Vazquez fired two shots
9 total. There was an approximate six-second pause between the first shot (fired by
10 Deputy Barajas) and the second shot (fired by Deputy Vazquez). There was an
11 approximate seven-second pause between Deputy Barajas' first shot and her second
12 shot. There was a five-second pause between Deputy Vasquez's first shot and second
13 shot. Between all of the pauses, Decedent never touched the gun, manipulated the
14 gun, raised the gun, or made any sudden or threatening movements.

15 **II. CONTENTIONS OF LAW**

16 **Claim 1: Fourth Amendment—Excessive Force**

17 This survival claim, brought by Plaintiff Jennie Quan, contends that
18 Defendants Marisol Barajas and Hector Vazquez used excessive force against
19 Benjamin Chin in violation of his Fourth Amendment rights and 42 U.S.C. § 1983.
20 Plaintiff seeks survival damages and attorneys' fees under this claim.

21 Elements:

- 22 1. Marisol Barajas and Hector Vazquez acted under color of law;
23 2. Marisol Barajas and Hector Vazquez used excessive force against
24 Benjamin Chin;
25 3. The excessive force caused injury, damage, loss, or harm to Benjamin
26 Chin.

27 *See Ninth Circuit Manual of Model Jury Civil Instructions, No. 9.25.*

1 Key Evidence: (1) testimonies of defendants; (2) testimonies of deputies at the
2 scene; (3) testimonies of plaintiffs' expert witnesses; (4) videos capturing the
3 incident; (5) still shots from videos capturing the incident; (6) forensic evidence,
4 including autopsy report; (7) testimonies of plaintiff and damages witnesses; and (8)
5 photographs of plaintiff and the decedent.

6 **Claim 6: Battery (Survival and Wrongful Death)**

7 Plaintiff Jennie Quan brings this claim individually and as Benjamin Chin's
8 successor-in-interest against Defendants Marisol Barajas, Hector Vazquez, and the
9 County of Los Angeles. Plaintiff seeks survival damages for Mr. Chin's pre-death
10 pain and suffering, loss of life, and loss of enjoyment of life. *See* Cal. Code Civ. Proc.
11 § 377.34. Plaintiff also seeks wrongful death damages for the loss of Mr. Chin's love,
12 companionship, comfort, care, assistance, protection, affection, society, and moral
13 support. *See* Cal. Code Civ. Proc. § 377.60. Plaintiff also seeks punitive damages.
14 The County of Los Angeles is vicariously liable for the conduct of Marisol Barajas
15 and Hector Vazquez. *See* Cal. Gov. Code § 815.2(a).

16 Elements:

- 17 1. Marisol Barajas and Hector Vazquez used unreasonable force against Mr.
18 Chin;
19 2. Marisol Barajas and/or Hector Vazquez's use of unreasonable force was a
20 cause of injury or death to Mr. Chin.

21 *See* CACI 1305B (2025 edition).

22 Key Evidence: (1) testimonies of defendants; (2) testimonies of deputies at the scene;
23 (3) testimonies of plaintiffs' expert witnesses; (4) videos capturing the incident; (5)
24 still shots from videos capturing the incident; (6) forensic evidence, including
25 autopsy report; (7) testimonies of plaintiff and damages witnesses; and (8)
26 photographs of plaintiff and the decedent.

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1 **Claim 7: Negligence (Survival and Wrongful Death)**

2 Plaintiff Jennie Quan brings this claim individually and as Benjamin Chin's
3 successor-in-interest against Defendants Marisol Barajas, Hector Vazquez, and the
4 County of Los Angeles. Plaintiff seeks survival damages for Mr. Chin's pre-death
5 pain and suffering, loss of life, and loss of enjoyment of life. *See* Cal. Code Civ. Proc.
6 § 377.34. Plaintiff also seeks wrongful death damages for the loss of Mr. Chin's love,
7 companionship, comfort, care, assistance, protection, affection, society, and moral
8 support. *See* Cal. Code Civ. Proc. § 377.60. The County of Los Angeles is vicariously
9 liable for the conduct of Marisol Barajas and Hector Vazquez. *See* Cal. Gov. Code §
10 815.2(a).

11 Elements:

- 12 1. Marisol Barajas and/or Hector Vazquez were negligent;
13 2. The negligence of Marisol Barajas and/or Hector Vazquez was a cause of
14 injury or death to Mr. Chin.

15 *See CACI 401, 441 (2025 edition).*

16 Key Evidence: (1) testimonies of defendants; (2) testimonies of deputies at the scene;
17 (3) testimonies of plaintiffs' expert witnesses; (4) videos capturing the incident; (5)
18 still shots from videos capturing the incident; (6) forensic evidence, including
19 autopsy report; (7) testimonies of plaintiff and damages witnesses; and (8)
20 photographs of plaintiff and the decedent.

21 **Claim 8: Violation of Cal. Civ. Code § 52.1 ("Bane Act")**

22 Plaintiff Jennie Quan brings this claim against Defendants Marisol Barajas,
23 Hector Vazquez, and the County of Los Angeles. Plaintiff brings this claim as
24 Benjamin Chin's successor-in-interest and seeks survival damages for Mr. Chin's
25 pain and suffering, loss of life, and loss of enjoyment of life, and punitive damages.
26 *Chaudhry v. City of Los Angeles*, 751 F.3d 1096 (9th Cir. 2014). The County of Los
27 Angeles is vicariously liable for the conduct of Marisol Barajas and Hector Vazquez.
28 *See* Cal. Gov. Code § 815.2(a).

1 Elements:

- 2 1. Marisol Barajas and/or Hector Vazquez used excessive force against Mr.
3 Chin;
- 4 2. Marisol Barajas and/or Hector Vazquez intended to violate Mr. Chin's
5 rights, demonstrated by these Defendants acting with reckless disregard for
6 Mr. Chin's right to be free from excessive force;
- 7 3. The use of excessive force was a cause of injury, damage, harm, or death to
8 Mr. Chin.

9 See CACI 3066; *Reese v. County of Sacramento*, 888 F.3d 1030, 1043 (9th Cir. 2018)
10 (citing *Cornell v. City and County of San Francisco*, 17 Cal. App. 5th 766, 801-802
11 (2017)).

12 Key Evidence: (1) testimonies of defendants; (2) testimonies of deputies at the
13 scene; (3) testimonies of plaintiffs' expert witnesses; (4) videos capturing the
14 incident; (5) still shots from videos capturing the incident; (6) forensic evidence,
15 including autopsy report; (7) testimonies of plaintiff and damages witnesses; and (8)
16 photographs of plaintiff and the decedent.

17 **III. ANTICIPATED EVIDENTIARY ISSUES**

18 Plaintiff has filed the following motions *in limine*:

- 19 1. Plaintiffs' Motion *in Limine* No. 1 to Exclude Testimony of Defense
20 Expert Joel Suss, PhD From Trial;
- 21 2. Plaintiffs' Motion *in Limine* No. 2 to Exclude Testimony of Defense
22 Expert Edward T. Flosi From Trial;
- 23 3. Plaintiffs' Motion *in Limine* No. 3 to Exclude Opinions of Defense
24 Expert John Marehbian, MD Not Disclosed in Rebuttal Report;
- 25 4. Plaintiffs' Motion *in Limine* No. 4 to Exclude Evidence or References to
26 Information Not Known to Defendant Deputies at the Time of the Incident;

27 **IV. ANTICIPATED ISSUES OF LAW**

28 None at this time.

1 **V. BIFURCATION**

2 Plaintiff requests that the issue of the amount of punitive damages to be
3 awarded, if any, be bifurcated from the remainder of the trial. At this time, Plaintiff
4 does not request bifurcation of any other issues. However, subject to the Court's
5 rulings on Plaintiffs' pending Motions *in Limine*, Plaintiffs may request bifurcation of
6 liability and damages if the Court allows admission of certain prejudicial evidence
7 solely on the basis that such evidence is relevant only to damages.

8 **VI. JURY TRIAL**

9 The issues herein are triable to a jury as a matter of right. The parties made a
10 timely demand for trial by jury.

11 **VII. ATTORNEYS' FEES**

12 If Plaintiff prevails at trial, they are entitled to attorneys' fees under 42 U.S.C.
13 § 1988, *Hensley v. Eckerhart*, 461 U.S. 424, 429 (1983), and under state law pursuant
14 to California Civil Code Section 1021, *et seq.*

15 **VIII. ABANDONMENT OF ISSUES**

16 The following claims have been dismissed/adjudicated: Fourth Amendment—
17 Denial of Medical Care claim, and all Plaintiff's *Monell* claims for Unconstitutional
18 Custom, Practice, or Policy, Ratification, and Inadequate Training.

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20 Respectfully submitted,

21 DATED: January 5, 2026

22 LAW OFFICES OF DALE K. GALIPO

23
24 By _____ /s/ *Hang D. Le*
25 Dale K. Galipo
26 Hang D. Le
27 Attorneys for Plaintiff
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